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(Probation)

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1 4. At the request of North Dakota Board Respondent underwent an evaluation
2 by the University of Wisconsin. The evaluation found Respondent deficient in several
3 areas of clinical competence. The evaluation also opined that Respondent could be
4 remediated. The major concerns raised by the evaluation were problem-solving abilities,
5 emergency medicine knowledge and pharmacology knowledge. The North Dakota Board
6 entered an order that proposed two plans for Respondent. The first required intense
7 continuing medical education ("CME") for two years with closely supervised clinical care.
8 The second required two years of postgraduate training and no independent practice.

9 5. The Board reviewed Respondent's credentials, specifically his receipt of a
10 medical degree in the Philippines in 1976, his internship in 1977 in the Philippines, and
11 his Education Commission for Foreign Medical Graduates ("ECFMG") certification in
12 1991. Respondent was asked what he did between 1977 and 1991. Respondent
13 testified he was trying to pass his boards for the ECFMG and the United States Medical
14 Licensing Examination ("USMLE"). Respondent noted between 1991 and 1994 he was
15 formally admitted to residency training, family practice, at the University of Texas Health
16 Science Center in Houston. Respondent noted Texas did not approve the ECFMG and
17 he had to retake the USMLE, but was unable to pass Part 1 of the USMLE. As a result,
18 Respondent went on to work with a physician and he applied for license in Arizona, but
19 did not practice here. Respondent testified he obtained a North Dakota license and went
20 there as a primary care physician in family practice. Respondent remained in North
21 Dakota for three years. Respondent testified his main problem in North Dakota was in
22 the community hospital where a rival physician said the care Respondent provided in the
23 emergency room was not substantial to their setting.

24 6. The Board asked if Respondent practiced medicine between 1977 and
25 1991. Respondent said he did not, other than the one year residency. The Board

1 confirmed with Respondent that he had selected the first option contained in the North
2 Dakota Board order requiring he obtain intense CME and practice in a setting where he is
3 supervised by another licensed physician. Respondent was asked if this was what was
4 happening in his current practice setting. Respondent testified it was not and noted he
5 has not practiced since September 2004 when he was terminated from his employment
6 because of the cost to his employer of providing a physician to supervise his practice.
7 Respondent was asked what he had done since September to comply with the North
8 Dakota Board order. Respondent testified he told the North Dakota Board that he would
9 be fulfilling the University of Wisconsin recommendation, but he thought he would present
10 to the Board for the formal interview. Respondent noted he is willing to comply with the
11 University of Wisconsin recommendation.

12 7. Respondent was asked what he done so far to comply with the two-year
13 remedial program recommended by the University of Wisconsin. Respondent noted the
14 two year program costs about \$25,000 and he had an attorney in North Dakota trying to
15 make an arrangement to decrease the two-year period. The Board confirmed that the
16 North Dakota Board left Respondent with the option of completing the two-year remedial
17 program or doing two years of residency. Respondent was asked what his plan was
18 since he indicated it was difficult to comply with the North Dakota Board order while he
19 was unemployed. Respondent testified he currently lives in Houston, Texas, but was
20 thinking he could probably do the program at the University of Arizona instead of in
21 Wisconsin. Respondent was asked if he had specific plans for complying with the North
22 Dakota Board order. Respondent testified he had ready plans to go to the University of
23 Wisconsin and they have devised a program for him that would not be too cumbersome
24 and allows him to stay there for three months and then come back to Arizona and do the
25 CME through the internet and then go back to Wisconsin for another three months.

8. Respondent was asked if he considered the second option of doing the two-year family practice residency. Respondent testified he had been inquiring from Wisconsin to San Diego to try and see if he could be able to go back and he contacted the former place he did his residency to see if he could go back and do another two years. Respondent clarified he had no offers at this time. Respondent testified he had no public complaints or incidents since the North Dakota complaint and he is willing to do the rehabilitation program and return to the practice of medicine.

CONCLUSIONS OF LAW

1. The Arizona Medical Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The Board has received substantial evidence supporting the Findings of Fact described above and said findings constitute unprofessional conduct or other grounds for the Board to take disciplinary action.

3. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1401(27)(o) (“[a]ction that is taken against a doctor of medicine by another licensing or regulatory jurisdiction due to the doctor’s . . . unprofessional conduct . . . that corresponds directly or indirectly to an act of unprofessional conduct prescribed by the paragraph”) and (q) (“[a]ny conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.”)

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED that Respondent is placed on Probation for a period of ten years with the following terms and conditions:

1 1. Respondent shall comply with the terms of the North Dakota Board Order,
2 specifically, Respondent shall complete one of the following rehabilitation plans as outlined
3 in that Order attached as Exhibit 1.

4 2. Respondent shall not practice clinical medicine in Arizona until he has
5 successfully completed either Plan A or Plan B as outlined in the North Dakota Board
6 Order. The Executive Director may approve Respondent's return to practice upon
7 fulfillment of the terms of the North Dakota Board Order.

8 3. If at the conclusion of year eight of the probationary term Respondent has
9 not completed either Plan A or Plan B, the Executive Director shall refer the matter to
10 formal hearing for further recommendation, including revocation.

11 4. In the event Respondent should leave Arizona to reside or practice outside
12 the State or for any reason should Respondent stop practicing medicine in Arizona,
13 Respondent shall notify the Executive Director in writing within ten days of departure and
14 return of the dates of non-practice within Arizona. Non-practice is defined as any period of
15 time exceeding thirty days during which Respondent is not engaging in the practice of
16 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
17 non-practice within Arizona, will not apply to the reduction of the probationary period.

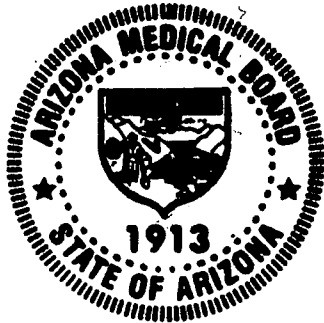
18 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

19 Respondent is hereby notified that he has the right to petition for a rehearing or
20 review. The petition for rehearing or review must be filed with the Board's Executive
21 Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The
22 petition for rehearing or review must set forth legally sufficient reasons for granting a
23 rehearing or review. A.A.C. R4-16-102. Service of this order is effective five (5) days
24 after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not
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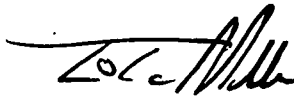
1 filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to
2 Respondent.

3 Respondent is further notified that the filing of a motion for rehearing or review is
4 required to preserve any rights of appeal to the Superior Court.

5 DATED this 13th day of October, 2005.



THE ARIZONA MEDICAL BOARD

11 By 
TIMOTHY C. MILLER, J.D.

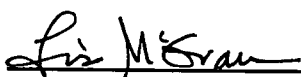
12 Executive Director

13 ORIGINAL of the foregoing filed this
13th day of October, 2005 with:

14 Arizona Medical Board
15 9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

16 Executed copy of the foregoing
17 mailed by First Class Mail this
13th day of October, 2005, to:

18 Leandro F. Baterina, Jr., M.D.
19 Address of Record

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